

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed July 10, 2008 ("Office Action"). At the time of the Office Action, Claims 1-21 were pending in the application with claims 3 and 18-21 being withdrawn from consideration. Claims 1, 2 and 4-17 were rejected.

In the present amendment, Applicants have amended independent claim 1 to clarify that the apparatus is for simulating and testing non-soil products in subterranean soil installations and is configured to test the effects on the non-soil product during application of vertical pressure created by a load means. Applicants have also added new claim 22. Applicants respectfully submit that all claims are now in allowable form and request allowance of these claims.

**Section 102 and 103 Rejections**

In the Office Action, claims 1, 2, 4, 5 and 14-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,474,066 to Lutenegger ("Lutenegger"). Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutenegger in view of U.S. Pat. No. 5,388,464 to Maddison ("Maddison"). Claims 7, 8, 12, 13 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutenegger in view of U.S. Pat. No. 4,483,197 to Kellner ("Kellner"). Applicants respectfully traverse the rejections.

In an effort to advance this case to allowance, Applicants briefly discuss the principal reference, Lutenegger. Lutenegger is directed to testing soil (not non-soil products contained within soil) in order to monitor the ratio of lateral stress to vertical stress upon soil to determine how the soil handles certain loads such as when building structures are constructed upon the soil. *See* Lutenegger Column 1, lines 6-16. Lutenegger discloses that soil is placed within a cylindrical receptacle or sleeve 38 having both an open top end and an open bottom end. *See* Col. 3, lines 38-39. A downward vertical pressure is applied to the soil sample which causes lateral pressure on the corresponding lateral wall surface of the cylindrical sleeve 38. This in turn causes a change in fluid pressure within a piston chamber 55, and the change in fluid provides a reading on a stress gauge 68. *See* Lutenegger Col.. 4, lines 35-46.

Applicants respectfully submit that Lutenegger does not, either alone or in combination with the other references cited, disclose or suggest an apparatus for simulating and testing non-soil products in subterranean soil installations, as recited in Applicants' independent claim 1 and the claims depending therefrom. For example, none of the art of record discloses or suggests an

apparatus having a container for "receiving soil and a non-soil product to be buried therein for simulation and testing" or that is "configured to test the effects on the non-soil product during application of vertical pressure" as is recited in Applicants' claim 1 as amended. With respect to the device disclosed in Lutenegger, this device provides a measurement of soil behavior only (the effect of vertically applied pressure being measured as a deflection of the container sidewalls, which in turn causes a change in fluid pressure within a piston which registers on a stress gauge), but does not provide for testing of materials buried in the soil. Even assuming for argument that a non-soil piece was included in the cylindrical chamber, there is no way of determining any changes to that test piece during application of a vertical load.

For the foregoing reasons, Applicants respectfully submit that Applicants' present claims are patentable over the art of record and respectfully request that the rejections under Section 102 and 103 be withdrawn.

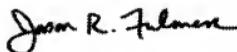
### **CONCLUSION**

Applicants have made a diligent effort to advance the prosecution of this application by complying with the requirements of the Office Action. Favorable consideration and an early allowance of the pending claims is respectfully requested. Applicants hereby authorize the Commissioner to charge any fees, other than the issue fee, that may be required by this paper to Deposit Account 07-0153.

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Respectfully submitted,

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